

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**FANNIE ROBBINS**

Claimant

VS.

**ST. FRANCIS HOSPITAL**

Respondent,  
Self-Insured

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Docket No. 1,006,170

**ORDER**

Respondent appealed the October 10, 2002 preliminary hearing Order for Medical Treatment (Order) entered by Administrative Law Judge Brad E. Avery.

**ISSUES**

This is a claim for an October 14, 1999 accident and a series of accidents or micro-traumas through August 9, 2002. In the October 10, 2002 Order, Judge Avery ordered respondent to provide claimant with medical treatment.

Respondent filed an application for review requesting this Board to review whether claimant's injury arose out of and in the course of employment, whether claimant had made timely written claim<sup>1</sup> and whether medical treatment was due the claimant. Although requested, respondent did not file a letter or brief with this Board setting forth its arguments and contentions.

As indicated by the Judge's statements at the October 7, 2002 Preliminary Hearing, the issues presented to the Judge were whether claimant sustained a series of accidents or mini-traumas through August 9, 2002, and whether the claim was timely filed with the Division of Workers Compensation. Accordingly, the issues before the Board on this appeal are:

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<sup>1</sup> Before testimony was taken at the October 7, 2002 Preliminary Hearing, the Judge noted the issues were claimant's accident date and whether "the claim was filed with the Division of Workers' Compensation within the applicable statute of limitations." No mention was made that respondent was denying that claimant served a timely written claim upon it.

1. Did claimant sustain a series of mini-traumas while working for respondent through August 9, 2002?
2. Did claimant file a timely application for hearing with the Division of Workers Compensation?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Board finds and concludes:

The preliminary hearing Order for Medical Treatment should be affirmed.

The Board finds that claimant injured her back in a series of accidents or mini-traumas through August 9, 2002, while working for the employer as a cook. That finding is based both upon claimant's testimony and the medical evidence presented in this claim.

Claimant testified how her symptoms progressively worsened after October 14, 1999, when she initially hurt her back while lifting over 80 pounds of roasts. Despite ongoing symptoms, claimant continued to work for respondent performing her regular job duties. Claimant's symptoms progressively worsened and in approximately June 2002 she began experiencing numbness into her left leg and foot. Claimant moved from her job as a night cook to a vegetable cook and found that she was doing lighter, but more repetitive, lifting. Claimant sought medical treatment at respondent's emergency room in July and August 2002, and she was given work restrictions limiting her lifting, pushing and bending. Accordingly, claimant's testimony establishes how her condition worsened through August 9, 2002.

After the October 1999 lifting incident, respondent's emergency room diagnosed strain in claimant's left thigh. But in August 2002, respondent's emergency room diagnosed radiculopathy in the left leg and arthritis in the lumbar spine. Moreover, a CT scan conducted in July 2002 and an MRI performed in September 2002 displayed severe facet arthritis and disc bulging at the L4-5 and L5-S1 intervertebral levels and moderate to severe spinal stenosis at L4-5 with minimal stenosis at L5-S1. Accordingly, the medical records also indicate a worsening in claimant's condition between October 1999 and August 9, 2002.

The Board finds claimant sustained a series of accidents and micro-traumas while working for the employer through August 9, 2002. Therefore, claimant had three years from that date to file an application for hearing with the Division of Workers Compensation.<sup>2</sup>

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<sup>2</sup> See K.S.A. 44-534.

Accordingly, claimant's application for hearing, which was filed in September 2002, was timely.

**WHEREFORE**, the Board affirms the October 10, 2002 Order for Medical Treatment entered by Judge Avery.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 2002.

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BOARD MEMBER

c: Jan L. Fisher, Attorney for Claimant  
Evelyn Z. Wilson, Attorney for Respondent  
Brad E. Avery, Administrative Law Judge  
Director, Division of Workers Compensation